

### **Examples:**

- (1) A condominium offering could provide:
  - A separate interest in space;
  - An undivided interest in common in the residential structure; and
  - Conveyance of common areas and facilities other than the residential structure to the association.
  
- (2) An apartment house or hotel conversion could provide:
  - Undivided interests in common to the entire project.

### **Conveyance to Trustee**

There may be a few instances where development in the common areas included in the offering, i.e., advertised from the beginning, is so extensive that the developer cannot reasonably be expected to complete the improvement work for several months or years after the issuance of the original Public Report. In these cases, the common areas and facilities should be bonded for lien-free completion and should be conveyed to a trustee approved by the Commissioner with the property held in trust for the benefit of the owners' association and the members thereof. As a general rule of thumb, the trust must be irrevocable and must provide for the conveyance of the common areas and facilities, free and clear of encumbrance, to the homeowners' association. (Code Section 11254)

### **Private Facilities Included in the Offering**

Time-share offerings are often associated with hotel resorts with private recreational or other supporting facilities where the sponsor desires to make the recreational or other supporting facilities available to the time-share owners, but retain fee title to said facilities. This arrangement can be accomplished by conveyance of an easement or license to the time-share association. The Deputy should refer to the guidelines for private facilities. The use of a license or easement arrangement should be limited to supporting facilities.

## **ASSESSMENTS PAYABLE BY OWNERS OF TIME-SHARE PROJECT INTERESTS – SECTION 11265**

Section 11265 requires that all interests in a time-share plan for which a Public Report has been issued are interests subject to the payment of regular and special assessments. The Deputy should determine from the form RE 668A how many of the projected interests are to be offered for sale under authority of the Public Report as a preliminary step to reviewing the file documents.

All accommodations in a time-share plan that are to be dedicated to timesharing and to be covered by a Public Report must be subject to assessments.

### **Declaration of Dedication, Importance of**

The Deputy should read the Restrictions (often called Declaration of Dedication, Declaration of CC&Rs, etc.) that relates to assessment obligations and procedures. Many form RE 668A and RE 668B applications state that the Public Report is to cover all of the potential interests in the resort, but the proposed Restrictions may state that Declarant, for each time-share interest owned and each purchaser, for each such interest owned, covenant to pay assessments. It is crucial to locate in the Restrictions the definition of a time-share interest since usually only interests in some of the accommodations or units are designated as such. The remaining accommodations or units are normally designated as non-dedicated. The improper result is that the sponsor is only obligated by the document to pay assessments on unsold interests in time-share interest units and does not pay assessments on interests in accommodations or units not dedicated to time-sharing.